IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION (LDG) NO.1478 OF 2007
WITH
WRIT PETITION (LDG) NOS.1479 & 1481 OF 2007

W.P. (L) 1478/07 :

Abbas Zoheb Lokhandwala,
Minor, Occupation – Student,
through his mother and Natural
Guardian, Mrs. Nisreen Z.
Lokhandwala, R/o. Haji Ismail Building,
1st Cross Lane, 2nd Floor,Room No.33,
Near E Ward, Byculla,
Mumbai-400 008. ...Petitioner.

Vs.

1. Maharashtra State Board of
   Secondary and Higher Secondary
   Education, Shivaji Nagar,
   Pune-411 005.
2. Maharashtra State Board of
   Secondary and Higher Secondary
   Education, Mumbai Division,
   Having its office at Plot No.27
   and 28, Sector 16-A, Vashi,
   Navi Mumbai-400 703,
   through its Divisional Secretary.
3. State of Maharashtra,
   through the Secretary,
   Department of Education,
   Mantralaya, Mumbai-400 032.

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W.P. (L) 1479/07 :

Dorothy Oswald Perris,
Minor, Occupation – Student,
through her mother and Natural
Guardian, Mrs. Ritu O. Perris,
R/o. Mary Rosario Colony,
Room No.2, Kharodi Village,
Marve Road, Malad (West),
Mumbai-400 064. ...Petitioner.

Vs.

1. Maharashtra State Board of
   Secondary and Higher Secondary
   Education, Shivaji Nagar,
   Pune-411 005.
2. Maharashtra State Board of
   Secondary and Higher Secondary
   Education, Mumbai Division,
   Having its office at Plot No.27
   and 28, Sector 16-A, Vashi,
   Navi Mumbai-400 703,
   through its Divisional Secretary.
3. State of Maharashtra,
   through the Secretary,
   Department of Education,
   Mantralaya, Mumbai-400 032.

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W.P. (L) 1481/07 :

(1) Mayuri Shashikant Chavan,
Age 19 years, Occupation – Student,
R/o. Sultan Building,First Floor,
Room No.33, Senapati Bapat Marg,
Dadar (West), Mumbai-400 028

and 24 others. ...Petitioners.

Vs.

1. Maharashtra State Board of
   Secondary and Higher Secondary
   Education, Shivaji Nagar,
   Pune-411 005.
2. Maharashtra State Board of
   Secondary and Higher Secondary
   Education, Mumbai Division,
   Having its office at Plot No.27
   and 28, Sector 16-A, Vashi,
   Navi Mumbai-400 703,
   through its Divisional Secretary.
3. State of Maharashtra,
   through the Secretary,
   Department of Education,
   Mantralaya, Mumbai-400 032.

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Mr.Pankaj Das for the Petitioner.
Ms. Deepa Chavan with Mr. Kiran Gandhi i/b. Little & Co. for Respondent Nos.1 and 2.
Ms. S.M. Dandekar, AGP for Respondent No.3.

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CORAM : SWATANTER KUMAR, C.J. &
DR.D.Y.CHANDRACHUD, J.

September 7, 2007.

JUDGMENT (Per Dr. D.Y. Chandrachud, J.) :

The Petitioners in this batch of Petitions under Article 226 of

the Constitution of India, appeared for the Secondary and Higher Secondary Certificate Examination conducted by the Maharashtra State Board of Secondary and Higher Secondary Education in March 2007. The Petitioners are “repeater” candidates who appeared in the subjects of Science and Social Sciences in the Examinations. According to the Petitioners, the question papers set by the Board for Science and Social Sciences carried 100 marks each. However, when the results were declared on 26th June 2007, the Petitioners were shown to have failed in the subjects of Science and Social Sciences on the basis that the maximum marks allotted to the aforesaid heads were 150 each instead of 100 marks. The case of the Petitioners is that the minimum marks required for passing in each subject is 35% and the action of the Board in marking the students out of a total 150 marks is arbitrary when the students had, in fact, appeared at the examinations for a total of 100 marks each. The relief sought is a declaration that the Petitioners be treated as having passed in Science and Social Sciences and a corrected statements of marks be issued showing the maximum marks as 100

instead of 150 for each of the said subjects.

2. An affidavit in reply has been filed in these proceedings on behalf of the State Board of Secondary and Higher Secondary Education in which it has been clarified that in consonance with the decision of the Supreme Court, directing all Examination Boards in the country to include Environmental Science in the syllabus for Standards X and XII examinations, the subject of Environmental Science came to be included in the syllabus for Standard X with effect from Academic Year 2006-07. Following the directives issued by the Government of Maharashtra, the Board took a decision that the subjects of Science and Social Sciences would be allotted 100 instead of 150 marks at the Standard X examination and accordingly, circulars were issued on 19th April 2006 and 11th July 2006. The Board was, however, required to make provision for repeater candidates appearing in the Science and Social Science subjects. The Board decided that it should have a common paper for all candidates (both for fresh students and for repeaters). The marks

obtained out of 100 by the repeater candidates would be converted proportionately into marks out of 150. The Board issued a circular on 2nd January 2007 once again clarifying that though the question papers in Science and Social Sciences would be out of 100 marks, the marks obtained would be proportionately enhanced so as to be out of a total out of 150 marks.

3. The challenge in these proceedings to the decision of the Board is without any substance. In so far as the power of the Board is concerned, the Board is vested under Section 18(b) of the Maharashtra Secondary and Higher Secondary Boards Act, 1965 to lay down guiding principles for determining curricula and syllabi and to prepare a detailed syllabi for all standards of secondary and higher secondary education. The Divisional Board is empowered by Section 19(m) to evaluate the performance of students in all examinations in secondary schools and junior colleges including the final examination. The power of the Examination Committee under Regulation 12(2)(xi) includes the preparation and recommendation of general guidelines

for the conduct of final examinations by the Divisional Board so as to ensure proper coordination and uniform procedures. The Regulations framed by the State Board inter alia include Regulation 13(7) under which the Board of Studies has to consider and make recommendations to the Academic Council, inter alia, regarding curriculum and detailed syllabi for all standards of Secondary and Higher Secondary Education and for the standard and quality of question papers at the final examinations. The powers of the Board and of its constituent authorities are wide enough to comprehend all aspects of the Secondary and Higher Secondary Examinations.

4. In view of the the directions issued by the Supreme Court, the Government of Maharashtra and the Board took a decision to introduce Environmental Science as a subject in the Sylabus. Repeater candidates who were appearing for the Board Examinations once again had to be provided for and a decision was taken that while on the one hand, one common paper would be set for fresh and repeater candidates, the repeater candidates would have to answer

the question paper in Science and Social Sciences out of 100 marks. Repeater candidates were hence not required to appear for the newly introduced subject of Environmental Science. However, the marks obtained out of 100 by repeater candidates would be proportionately increased to marks out of 150.

5. The decision taken by the Board was within the scope of its statutory powers and authority. The decision cannot be regarded as ultra vires or extraneous to the statutory powers conferred upon the Board. It is a well settled principle of law that in academic matters, the Court in the exercise of its writ jurisdiction under Article 226 of the Constitution of India would not ordinarily interfere with the decision of an expert body, unless the exercise of discretion is ultra vires or arbitrary. The decision in the present case has not caused any prejudice to repeater candidates. Marks which were obtained out of 100 have been proportionately increased to equate them with marks obtained out of a total of 150 marks. There is nothing arbitrary or illegal in the said decision.

6. In these circumstances, we do not find any reason to interfere in the exercise of the writ jurisdiction. There is no merit in the grievance of the Petitioners. The Petitions shall, accordingly, stand dismissed.

CHIEF JUSTICE

Dr.D.Y. CHANDRACHUD, J.